

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2000-285

March 7, 2001

TIME WARNER CABLE OF MAINE  
Request for Advisory Ruling Regarding  
Pilot Program

SUPPLEMENTARY  
ADVISORY RULING:

---

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

---

In this Supplemental Advisory Ruling, we rule that Time Warner Cable will not be considered a public utility if it offers the pilot program telephone service described in the April 7, 2000 Advisory Ruling in this docket until a date no later than June 30, 2002.

On February 15, 2001, Time Warner Cable, Inc. filed a "Request for a Supplemental Advisory Ruling." We issued an Advisory Ruling in this docket on April 7, 2000 stating that Time Warner Cable would not become a telephone utility by offering telephone service under a pilot program that was limited in its availability and limited in time. In its original request, and at the time that we issued the Ruling, Time Warner Cable and the Commission anticipated that the pilot program would commence in April of 2000, and would end on March 31, 2001, at which time Time Warner Cable would either discontinue the service or convert the program to a permanent offering. Because of delays that Time Warner Cable states were necessary "to eliminate certain technical issues," the program did not actually commence until September 7, 2000, and even then, for far fewer customers than the 1000 it originally anticipated.

In support of its request, Time Warner Cable states:

On April 7, 2000 the Commission issued an Advisory Ruling in the above-captioned Docket (the "April Ruling") concluding that Time Warner Cable, a division of Time Warner Entertainment Company, L.P., through its New England Division, ("TWC") would not be a telephone utility under Maine law by reason of its offering the "Line Runner™" pilot program, consisting of a voice feature offered in connection with TWC's Road Runner™ cable modem service. At the time that TWC filed its Request for Advisory Ruling, it anticipated that the pilot program would commence in April of 2000, and advised that it intended to run the program for one year, after which it would either discontinue the service or convert the program to a permanent offering.

Rather than commencing service in April, TWC deferred the launch of the program for some time in order to resolve certain technical issues which arose late in TWC's

launch preparation. As a result, TWC did not connect its first Line Runner customer until September of 2000. ...

[E]nrollment in the program has grown to approximately 200 customers. TWC has been reluctant to expand enrollment in the program to its intended level of 1,000 customers due to the fact that many of the components needed to provision, support and operate an Internet Protocol ("IP") local voice feature on a permanent basis are only now emerging from the development stage. Specifically, the modems, automated provisioning systems and the software to achieve certain billing refinements have yet to become generally available in the market.

Although to date the pilot program has provided useful technical information, because of the limited number of enrollees TWC has not been able to obtain the kind of market information that it believes it will need in order to make the significant business decision of whether to discontinue the program, or convert it to a permanent and generally available offering. Based on the information currently available, TWC believes that it will not be able to reach its target enrollment of 1,000 subscribers until mid- to late summer of this year. If it should reach this goal, TWC believes that the information from the pilot program which it will need to make the necessary go/no go business decision should be available by the end of the first quarter of 2002. ...

As discussed above, TWC believes that it will be in a position to make a business decision on whether to proceed with a permanent offering or discontinue the program at some time prior to the end of the first quarter of 2002, although it may be able to make the decision - - positive or negative - - within a shorter time frame depending on a variety of factors. Based on the outcome of this decision, TWC will either advise the Commission in writing that it has decided to terminate the program, in which case it will so notify the program participants and terminate the program by June 30, 2002 at the latest, or elect to convert the program to a permanent offering, in which case it will make any necessary filings with the Commission in sufficient time to permit the Commission to process the filings by June 30, 2002. ...

TWC would point out that, other than the time frame of the pilot program, all aspects of the program will remain in

effect as originally proposed: the program will be limited to the greater Portland area, TWC will continue to exercise significant discrimination in enrolling subscribers to ensure optimal dispersal of participants over TWC's operating areas, no more than 1,000 customers will be allowed to participate in the program, and the purpose of the program will continue to be the collection of information that will be used to determine whether TWC wishes to offer a local IP voice service.

We find that Time Warner Cable's request to issue a Supplemental Order is reasonable. Time Warner Cable has agreed that it will provide the Commission, on or before March 31, 2002, with notice of whether it intends to terminate the pilot program or provide a permanent offering.

Accordingly, we

#### RULE

1. That if Time Warner limits the pilot program described in the Advisory Ruling issued on April 7, 2000 to a period that ends no later than June 30, 2002 (instead of the time frame discussed in the original Advisory Ruling) and limits the program as otherwise described in its original Request and in the Advisory Ruling, the program will not be considered to be a public utility offering.
2. Time Warner Cable shall provide notice to the Commission of its further intent concerning the program on or before March 31, 2002.

Dated at Augusta, Maine, this 7th day of March, 2001.

BY ORDER OF THE COMMISSION

---

Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:

Welch  
Nugent  
Diamond

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within 30 days of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Civil Procedure, Rule 73, et seq.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.